

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEROY J. FLEMING,

Plaintiff,

Case No. 08-10062

Honorable David M. Lawson

v.

WAINWRIGHT, Sheriff, JOHN DOE 1,
and JANE DOE 1 AND 2,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND GRANTING DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO
PROSECUTE, AND DISMISSING THE CASE WITH PREJUDICE**

Presently before the Court is the report issued on September 28, 2009 by Magistrate Judge R. Steven Whalen pursuant to 28 U.S.C. § 636(b), recommending that this Court grant the defendants' motion to dismiss the case for failure to prosecute. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed thus far. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 22] is **ADOPTED**.

It is further **ORDERED** that defendants' motion to dismiss action for failure to prosecute [dkt # 21] is **GRANTED**.

It is further **ORDERED** that the plaintiff's case is **DISMISSED** with prejudice.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: October 22, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 22, 2009.

s/Lisa M. Ware
LISA M. WARE